



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/725,338

12/02/2003

Brenda Lynn Deitrich

00280749AA

1329

30743

7590

09/26/2008

WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C.  
11491 SUNSET HILLS ROAD  
SUITE 340  
RESTON, VA 20190

EXAMINER

CHONG CRUZ, NADJA N

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

09/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/725,338	<b>Applicant(s)</b> DEITRICH ET AL.	
	<b>Examiner</b> NADJA CHONG CRUZ	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>14 July 2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. This Non Final action is in reply to the application filed on 31 July 2008.
2. Claim 28 has been amended.
3. Claim 28 is currently pending and has been examined.

### **Response to Amendment**

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
5. The objection to the drawings in the previous office action is withdrawn in light of Applicant's arguments.
6. The objection to the specification in the previous office action is withdrawn in light of Applicant's arguments.

### **Claim Rejections - 35 USC § 112**

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
8. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
9. Claim 28 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: between the limitations D) defining criteria for selection and E) characterizing the workforce and between E) characterizing the workforce and F) identifying

feasibility of target states. It is unclear as to how, after defining criteria for selection, characterizing the workforce evolution and identifying feasibility of target steps will generate an achievable state of the workforce. The steps have no sequence or continuity between them. It is unclear how the steps are related with each other; they appear to be different pieces for designing and planning a workforce evolution.

**Claim Rejections - 35 USC § 101**

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 28 is rejected under 35 U.S.C. 101 based on Supreme Court precedent, and recent Federal Circuit decisions, the Office's guidance to examiners is that a § 101 process must (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).
12. An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, for example by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that is being transformed, for example by identifying the material that is being changed to a different state.
13. Here, applicant's method steps, fail the first prong of the new Federal Circuit decision since they are not tied to another statutory class and can be performed without the use of a particular apparatus. Thus, claims 17-21 are non-statutory since they may be performed within the human mind.

14. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. See Benson, 409 U.S. at 71-72. As Comiskey recognized, "the mere use of the machine to collect data necessary for application of the mental process may not make the claim patentable subject matter." Comiskey, 499 F.3d at 1380 (citing *In re Grams*, 888 F.2d 835, 839-40 (Fed. Cir. 1989)). Incidental physical limitations, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one.

#### Response to Arguments

15. Applicant's arguments received on 31 July 2008 have been fully considered but are not persuasive.
16. With regard to claim 28, Applicant argues that Vardi fails to teach or disclose (1) *a computer implemented method*, (2) *"designing and planning a workforce evolution"* or even in any sense being concerned with "workforce", (3) *any computing*, (4) *computing cost or minimizing cost* (page 5, last paragraph). Applicant argues that (5) *[n]either Vardi nor Habichler is "[a] computer implemented method for designing and planning workforce evolution"* (page 7, 2<sup>nd</sup> paragraph).
17. Also, Applicant argues that (6) *Vardi is devoid of any computational approach* therefore it is completely beyond the ability of a person of ordinary skill in the art at the time of the Applicant's invention to change the approach of Vardi so dramatically in a direction of a computational-based approach" (page 7, 2<sup>nd</sup> paragraph) and (7) *[i]t is objectively unrealistic to hypothesize that a person of ordinary skill in Applicants' art would start with a non-computer-implemented, non computational model in Vardi from an individual-employee perspective with no concern at all for computing cost.*
18. Further, Applicant argues that Clark (8) *is merely an automated system for matching job candidates with jobs and is a long way from a "method for designing and planning workforce evolution"*.

Art Unit: 3623

19. In response to applicant's arguments (1), (2), (3), (4) and (6) against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). It appears as if the Appellant is attacking the references in a piecewise fashion, instead of in combination, as intended by the Examiner and as shown below in the rejections under 35 USC § 103(a).
20. In response to Applicant's arguments (1) and (2). Examiner respectfully disagrees. The recitations that Vardi fails to teach or disclose (1) *a computer implemented method* and (2) *"designing and planning a workforce evolution" or even in any sense being concerned with "workforce"*, (page 5, last paragraph) has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
21. In response to Applicant's argument (5), Examiner respectfully disagrees. The recitation *[n]either Vardi nor Habichler is "[a] computer implemented method for designing and planning workforce evolution"* (page 7, 2<sup>nd</sup> paragraph) has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).
22. In response to applicant's argument (7), Examiner respectfully disagrees, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any

Art Unit: 3623

one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Examiner has expressly articulated the combinations and the motivations for combinations that fairly suggest Applicant's claimed invention. Note, for example, the motivations explicitly stated in the paragraphs below.

23. In response to applicant's argument (8) that Clark et al., (US, 5,164,897) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Clark et al., is in the same field of applicant's endeavor of selecting, comparing and matching an employee with a job's qualifications and skills, in order to promote an employee as part of the workforce evolution and organizational needs. The matching and comparing criteria enables to select an appropriate employee who complies with the needs and skills of the new job position within the organization.

#### **Claim Rejections - 35 USC § 103**

24. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
25. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vardi, Organizational Career Mobility: An Integrative Model, *Academy of Management Review*; 1980; Vol. 5, No. 3; pages 341-355 in view of Habichler et al (US 2007/0203710 A1) hereinafter "Habichler" further both in view of Clark et al (US 5,164,897) hereinafter "Clark" and Kintner et al (US 6,732,079 B1) hereinafter "Kintner".

**Claim 28:**

Vardi as shown discloses a method for designing and planning a workforce evolution, the method comprising:

- *against a mix of workforce topological internal and external constraints* (page 341, 1<sup>st</sup> column, 1<sup>st</sup> ¶: which teaches that “career mobility experiences and opportunities are shaped by contextual and process constraint at both the individual and organizational levels” (e.g., internal and external constraints), page 347, 1<sup>st</sup> – 2<sup>nd</sup> column, 1<sup>st</sup> ¶: which teaches that “[t]he relative importance of the various constraints and antecedents” (e.g., a mix of workforce) “is expected to vary for different types of organizations and individuals”. Furthermore, Figure 2, which it illustrates an integrative model of OCM determinants and page 349-351 Objective Constraints which Vardi teaches internal and external constraints at the organizational and individual level characteristics);
- *and defining criteria for selection of at least one candidate topology for a specified mix of internal and external constraints* (page 347, 1<sup>st</sup> – 2<sup>nd</sup> column, last ¶ and 2<sup>nd</sup> ¶ respectively, which teaches that “the resultant mobility is a function of the interaction between organizational attributes (which establish the type of roles, the available channels, and the criteria for career movement) and individual-level determinants (demographic characteristics as well as behavioral processes)” (e.g., a mix of internal and external constraints) where criteria for selection are defined because the mobility “becomes patterned, reflecting sequences of job changes, regular time tables, and specified criteria for the transitions”. Vardi teaches that in order to identify a mobility career for a candidate, criteria selection are determined for the transition);
- *said criteria defining step comprising the steps of: computing a cost as a function of candidate topologies* (page 343, 1<sup>st</sup> column, 2<sup>nd</sup> ¶, which Vardi teaches that “[t]he



mobility of individuals among positions is viewed as a function of external economic forces and internal cost/ benefit and supply/demand ratios" where cost are as a function of candidate topologies (e.g., mobility among positions));

- *characterizing the workforce evolution over time as a function of dynamic workforce events, dynamic workforce events including transitions within the workforce, arrivals to the workforce and departures from the workforce* (page 346, 1<sup>st</sup> column 3<sup>rd</sup> ¶: which teaches that "[t]he intraorganizational mobility process can be abstractly described as follows: Members join the organization at various "entry ports."" (e.g., arrivals to the workforce) "During their employment period in the organization some drop out from the initial point, others move to related jobs in different directions. Some members leave through various "exit ports," others establish themselves in a terminal job until their retirement" (e.g., departures from the workforce), "and a selected few "climb the ladder" to the top" where Vardi delineate the workforce evolution over time by describing dynamic workforce events including transitions from "entry ports" to "exit ports");
- *said characterizing step comprising the steps of: identifying one or more time periods of interest* (page 346, 1<sup>st</sup> and 2<sup>nd</sup> column, 3<sup>rd</sup> ¶ and 1<sup>st</sup> ¶, respectively, Defining Organizational Career Mobility and page 347, 2<sup>nd</sup> column, Dimensions of Actual Mobility: Dependent Variables, which teaches that "all patterned, sequential, and work-related job movement should be regarded as career mobility. They state: "over time," (e.g., time periods of interest) "the paths of movement of personnel through the system of positions making up the company's structure tend to become more or less stabilized" because "[t]his movement for the most part becomes patterned, reflecting sequences of job changes, regular time tables, and specified criteria for the transitions". Furthermore, Vardi teaches that in order to characterize a workforce evolution over time (e.g., career, mobility, movement, job mobility,

career mobility and career movement) one or more time period have to be identified because it is “useful for observing the actual patterns of job movement experienced by organization members over time”);

- *modeling with evolution rates data* (page 343, 1<sup>st</sup> column, The Economic Approach, 1<sup>st</sup> ¶ and page 347-349, Dimensions of Actual Mobility, Rate of mobility: which teaches that “[t]he mobility of individuals among positions is viewed as a function of external economic forces and internal cost/ benefit and supply/demand ratios. The main concerns of the economists are the conditions under which the internal labor market operates, expands, or contracts, and how the rates of mobility can be best predicted given certain economic constraints (production goals, labor contracts, prices, etc.).” where Vardi teaches that is well known in the art modeling with evolution rates data (e.g., rate of mobility) because “[r]ate of movement denotes the number of job changes relative to the period of employment in the organization”);
- *and identifying a space of controlled evolution rates* (page 343, 1<sup>st</sup> column, The Economic Approach, 1<sup>st</sup> ¶ and page 347-349, Dimensions of Actual Mobility, Rate of mobility: which teaches that “[t]he mobility of individuals among positions is viewed as a function of external economic forces and internal cost/ benefit and supply/demand ratios. The main concerns of the economists are the conditions under which the internal labor market operates, expands, or contracts, and how the rates of mobility can be best predicted given certain economic constraints (production goals, labor contracts, prices, etc.).” where Vardi teaches that the “[r]ate of movement denotes the number of job changes relative to the period of employment in the organization” where by identifying them as a space of controlled evolution rates, the organization determines viable career options for its workforce because “[a] high rate of mobility can be expected, for instance, where the internal and external labor markets are active, where job vacancies are filled from within as

much as possible, or where the technology facilitates frequent job changes. Low rates of mobility, on the other hand, are expected to characterize higher-level employees, employees with specialized tasks, or those with higher needs for stability”);

Vardi does not disclose the following limitations however Habichler in an analogous art of organizational career mobility for the purpose of identifying a career path (e.g., topology, current and future state) by using an enterprise computing system (Habichler, Figures 1-4, 6C, 8A-8C and 11) as shown does:

- *identifying a portfolio of candidate workforce organizational topologies* (Figure 6C which it illustrates an example of a network of related work position types (e.g., an original workforce organizational topologies) that is defined for an organization, Figure 14, which it illustrates a flow diagram of the career path management routine where current competency and position information for an employee and work position type is obtained which it is implicitly disclosed that a portfolio of candidate workforce is available for data retrieving and page 2, ¶ 0027: which teaches that “the facility can identify one or more possible career paths that lead from the starting position type to the target future position type” where Habichler teaches that the user identify one or more possible career paths which are workforce organizational topologies for career mobility);
- *identifying an original workforce organizational topology, said topology specifying viable paths from one node to another node in the workforce organizational topology* (Figure 6C which it illustrates an example of a network of related work position types (e.g., an original workforce organizational topologies) that is defined for an organization, for example for a Junior IT Analyst, his career mobility is to IT Analyst, which can move to Senior IT Analyst – Level 1 or to become a Junior Software Engineer);

- *identifying a present state* (Figure 6C which it illustrates an example of a network of related work position types, which is defined for an organization. Habichler teaches that a present state workforce from an organization is identified in order to create workforce future career path, for example, as present state described in Figure 6C: Junior IT Analyst, Junior Software Engineer, Entry-Level Product Manager and so on are identified as part of the current workforce);
- *and computing an achievable state of the workforce* (Figures 8A-8C which they illustrates examples of using competency-related information as part of career path management activities and page 8, ¶ 0092-0093, which teaches that “the system in the illustrated embodiment determines the possible career paths from the starting work position type to the selected target work position type, and displays those possible career paths” where Habichler teaches that the system computes and provides possible career paths (e.g., achievable state of the workforce);
- *identifying feasibility of target states of the workforce said feasibility identifying step comprising the steps of: identifying one or more target states* (page 2, ¶ 0027: which teaches that “the facility can identify one or more possible career paths” (e.g., one or more target states of the workforce) “that lead from the starting position type to the target future position type (e.g., through one or more intermediate position types).”);
- *computing achievable states and checking whether the achievable states are one of the target states* (page 2, ¶ 0027: which teaches that “[w]hen the position types have associated required competencies, the facility can also identify the competency gaps that exist for the member relative to each position type along the career path and/or between each pair of adjacent position types along the career path” where Habichler teaches that the system is checking the achievable states are one of the target states by identifying the competency gaps. Furthermore,

“[a]fter competency gaps are identified, actions to reduce those competency gaps can be identified for possible inclusion in a future action plan for the member” in order to achieve a target state);

- *and computing elements of a space of controlled evolution rates, which after implementation would result in one of the target states, or identifying that no such element of the space of controlled evolution rates exists* (Figures 8A-8C and page 2, ¶ 0027: which teaches that “the facility can identify one or more possible career paths” (e.g., one or more target states of the workforce) “that lead from the starting position type to the target future position type (e.g., through one or more intermediate position types).”) where Habichler teaches that it is implicitly disclosed that the required competencies matched the constraints (e.g., mobility rates) in order to identify a target future position. Furthermore, Habichler teaches that “[t]he facility can also provide other career management functionalities, including identifying other position types to consider (e.g., based on current or planned competencies of the member), providing links to openings for positions of future position types as the member becomes qualified for them, and providing various other types of information about future position types.”);
- *report generating* (page 2, ¶ 0029: which teaches that “[t]he user interface layer 110 may provide the applets, views, charts and reports associated with one or more applications”);
- *the computer implemented method including steps implemented by an enterprise computing system* (Figures 1-4 and 11, which they illustrates an enterprise computing system where steps are implemented)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of Vardi of Organizational Career Mobility: An Integrative Model with the computer implemented method of managing future career path of Habichler because

Vardi and Habichler are from the same field of endeavor (career management) and Habichler's managing future career path is a computer implemented method of Vardi's integrative model, because Habichler computer implemented method of managing future career path "assist members of an organization in managing future career paths within the organization" in a more efficient and cost effective way. Furthermore, Habichler provides "one or more defined networks of related position types for that organization, with an appropriate defined network indicating the future position types to which a current position type can lead." (Habichler, page 2, ¶ 0027).

The combination of Vardi / Habichler does not disclose the following limitation however Clark in an analogous art of organizational career mobility for the purpose of selecting personnel to match a job criteria (Clark, column 17, lines 1-12) as shown does:

- *comparing said candidate topologies for suitability of employment* (column 17, lines 1-12, which teaches that "the program will compare the employee qualification with all of the open job requirements files to ascertain whether or not any matches occur" where [i]f any matches are found, the program will then display the matched open jobs at step 654 and generate a report at step 656". Clark teaches that by comparing the employee (e.g., candidate) skills and qualifications with open job requirements a career path is determined by matching employee qualifications with those job requirements in order to identify an appropriate job for career mobility);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the method of Vardi of Organizational Career Mobility: An Integrative Model and the computer implemented method of managing future career path of Habichler with the automated method for selecting personnel matched job criteria as taught by Clark because "it provides a fast, automated, logically organized, user friendly method for matching the qualifications of job candidates to particular job related criteria as supplied by potential employers" (e.g., potential supervisor) (Clark, column 2, lines 1-8). Furthermore, Habichler and

Clark are all from the same field of endeavor (career management) where Clark teaches a method for comparison and matching between job qualifications and candidates skills, which is a way to establish a future career path (e.g., candidate topologies) when a new job opportunity is determined by that comparison. Therefore, the candidate chooses which job is more appropriate to his/her current skills and by choosing this alternative a new career path and professional development begins in his/her current job organization or a new one.

The combination Vardi / Habichler /Clark does not explicitly disclose *computing a cost* however Kintner in an analogous art of producing a worker staffing plan over a long-term workload forecast for the purpose of computing a cost (Kintner, column 4, lines 8-18) as shown does:

- *computing a cost* (column 4, lines 8-18, which Kintner teaches that “this model is to determine the cost of the management policies such as headcount limits. To observe the effects of these policy constraints, the user can enter data on these policies. The model will then report the minimum-cost plan that will meet the additional policy constraints. Since these policies restrict the number of plans that can be considered, they can only serve to maintain or increase the cost of the plan.” Where Kintner teaches that this model computes cost. Furthermore, [t]he model is an excellent tool for playing “what if” games to learn about the impacts of such policy constraints” (e.g., organizational constraints));

Furthermore, Kintner discloses the following limitation:

- *and selecting an optimal topology by finding the topology which minimizes the cost among the space of topologies satisfying the constraints* (column 3 – 4, lines 59-61 and 11-12, respectively, which teaches that this model determines “the minimum-cost plan that will meet the workforce requirements” where Kintner teaches that it is implicitly disclosed that an optimal topology is selected by meeting the workforce

requirements (e.g., satisfying the constraints) because “[t]he model will then report the minimum-cost plan that will meet the additional policy constraints”);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Vardi of Organizational Career Mobility: An Integrative Model and the computer implemented method of managing future career path of Habichler and the automated method for selecting personnel matched job criteria as taught by Clark with the method of determining the best mix of regular and contract employees of Kintner because it “provides a procedure to be practiced on a suitably programmed computer for determining a low cost mix of available different types of employees” (Kintner, column 2, lines 24-26) which is obvious to modify the parameters based on the organizational needs in order to determine a low cost mix because Kintner provides “an excellent tool for playing “what if” games to learn about the impacts of such policy constraints” (Kintner, column 4, lines 16-18).

### Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
- Meyerkopf et al., (US 2004/0068432 A1) discloses a workforce management application.
  - Sweet James, How Manpower Development Can Support Your Strategic Plan, *Journal of Business Strategy*, Vol. 2, Iss. 1, 1981, which disclose an integrative model for manpower forecast and inventory.
  - Gaimon et al., A Distributed Parameter Cohort Personnel Planning Model that uses Cross-Sectional Data, *Management Science*, Vol. 30, No. 6, June 1984, which disclose a planning model that uses cross-sectional data to derive an optimal hiring, promotion, separation and retirement policies of an organization.
  - Mayo, Andrew, Linking Manpower Planning and Management Development, *Industrial and Commercial Training*, Vol. 22, No. 3, 1990, which disclose an integrated planning



process where the needs of the individuals and the organization can be met in the longer term.

- Wooten, William, Using Knowledge, Skill and Ability (KSA) Data to Identify Career Pathing Opportunities: An Application of Job Analysis to Internal Manpower Planning, *Public Personnel Management*, Vol. 22, No. 4, (Winter 1993), which disclose a job analytic methodology to identify knowledge, skill and ability (KSA) dimensions for establishing career paths between source jobs and target jobs.
- Business Wire, Icarian Pioneers New Class of Web-based Software Called "Enterprise Workforce Planning" to Help Companies Solve Workforce Management Challenges, New York: Nov 2, 1998. pg. 1, which disclose a new enterprise application market that addresses the workforce planning and staffing challenge.
- Business Wire, REMINDER/Lawson Software Press Conference; Lawson Software to Launch Workforce Analytics 2000, *Assignment Editors/High-Tech Writers REMINDER...for Tuesday (Oct. 19)*, Oct 11, 1999. pg. 1, which disclose Workforce Analytics 2000 software which is totally Web-based with analytic tools for the areas of compensation, headcount, turnover and staffing.
- Business Wire, Deploy Solutions and Saratoga Institute Align to Offer First Workforce Management Benchmarking And ROI Tool, *Business/Technology Editors*, Aug 14, 2000. pg. 1, which disclose an alliance to deploy a Workforce Management Benchmarking and ROI tool.
- Business Wire, people3 Launches careerpower - The Career Development Software Tool for IT Organizations *Business Editors/Hi Tech Writers*, Feb 23, 2001. pg. 1, which disclose a career development software tool.
- Business Wire, people3 Launches careerpower Version 2.3 -- the Premier Intranet-Based Career Development Software Tool, *Business & Technology Editors*, Sep 20, 2001. pg. 1, which discloses that careerpower Version 2.3's new features include enterprise-wide assessment scheduling, increased user empowerment through

assessment and skill management, a job finder function that matches the employees' skills and competencies with desired positions.

- TheSkillsMatch, WorkforceOS 2001-2002  
(<http://web.archive.org/web/20020205164211/http://www.workforce-os.com>) which teaches TheSkillsMatch™ which is a real tool - available today to organizations that make the connection between long-term success and proactive workforce management through the ups and downs of employment cycles.
- M2 Presswire, UK Government: Government publishes blueprint for a better-skilled Workforce, Nov 14, 2002. pg. 1, which discloses a strategy in creating a responsive workforce development system that, is led by the needs of businesses and employees.
- ClickSoftware 2002  
(<http://web.archive.org/web/20021123173625/http://www.clicksoftware.com>) which disclose software for forecast management and planning.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nadja Chong** whose telephone number is **571.270.3939**. The Examiner can normally be reached on Monday-Friday, 8:00am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Beth Boswell** can be reached at **571.272.6710**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

*Commissioner of Patents*

*P.O. Box 1450*

*Alexandria, VA 22313-1450*

or faxed to **571.273.8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

/Nadja Chong/ Examiner, Art Unit 3623

/Scott L Jarrett/

Primary Examiner, Art Unit 3623